

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN JOSE DIVISION

UNITED SPECIALTY INSURANCE
COMPANY,

Plaintiff,

v.

BANI AUTO GROUP, INC.; SIA BANI &
COMPANY, LLC; BANI INVESTMENTS,
LLC; CLUB SPORTIVA, INC. f/k/a
DRIVE A DREAM, INC.; and SIAVOSH
BANIHASHEMI a/k/a SIA BANI,

Defendants.

Case No. 18-cv-01649-BLF

**ORDER GRANTING PLAINTIFF'S
REQUEST FOR DISMISSAL OF
CERTAIN CLAIMS AND ENTRY OF
JUDGMENT ON CLAIMS 4 AND 7**

[Re: ECF 79, 87]

On September 14, 2021, the Court granted partial summary judgment for Plaintiff United Specialty Insurance Company and against Bani Auto Group, Inc., Club Sportiva, Inc., and Siavosh Banihashemi a/k/a Sia Bani ("Sia Bani") on Claims 4 and 7 of the complaint. *See* MSJ Order, ECF 78. Plaintiff thereafter filed a request for dismissal of all remaining claims, and entry of judgment on Claims 4 and 7. *See* Pl.'s Req., ECF 79. Defendants filed an objection to Plaintiff's request, asserting that Plaintiff erroneously sought prejudgment interest at a rate of 10% when the correct prejudgment interest rate is 7%. *See* Defs.' Obj., ECF 83. Defendants did not object to any other aspect of Plaintiff's request for dismissal of certain claims and entry of judgment. *See id.*

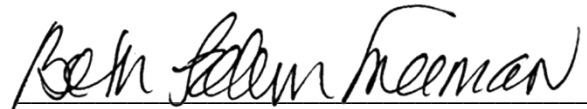
The Court entered two stipulated orders deferring ruling on Plaintiff's request, as the parties were attempting resolve the remaining issues in the case. *See* Orders, ECF 84, 86. However, on November 29, 2021, Plaintiff renewed its request for dismissal of certain claims and entry of judgment, indicating that the parties were unable to reach resolution. *See* Pl.'s Renewed

1 Req., ECF 87. Plaintiff now concedes that the appropriate prejudgment interest rate is 7%. *See id.*
2 The Court agrees that in this diversity action, California law applies and entitles Plaintiff to
3 prejudgment interest at a rate of 7%, running from the date of Plaintiff's payment of \$1,000,000
4 on August 30, 2019. "State law governs prejudgment interest in a diversity action." *Westport Ins.*
5 *Corp. v. California Cas. Mgmt. Co.*, 916 F.3d 769, 781 (9th Cir. 2019). "The California
6 Constitution generally affixes the rate of prejudgment interest at seven percent per annum for
7 judgments rendered in state courts unless specified otherwise by the legislature." *Id.*; *see also*
8 *MGA Ent., Inc. v. Hartford Ins. Grp.*, 869 F. Supp. 2d 1117, 1136 (C.D. Cal. 2012) (insurer's
9 claim for equitable contribution was subject to prejudgment interest at a rate of 7%).

10 Because Plaintiff has conceded the only issue as to which Defendants objected – the
11 applicable prejudgment interest rate – the Court GRANTS Plaintiff's request for dismissal of
12 certain claims and entry of judgment on Claims 4 and 7. A separate dismissal order and a
13 judgment will issue concurrently with this order.

14 **IT IS SO ORDERED.**

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16 Dated: November 30, 2021

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18 BETH LABSON FREEMAN
19 United States District Judge
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